

APPEAL NO. 040936
FILED JUNE 15, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on April 8, 2004. The hearing officer determined that the respondent/cross-appellant (claimant) sustained a compensable injury on _____; that the appellant/cross-respondent (carrier) is not relieved from liability under Section 409.002 because the claimant timely notified his employer of the claimed injury; and that the claimant did not have disability as a result of the _____, compensable injury. The carrier appealed the hearing officer's determinations regarding injury and timely notice. The appeal file does not contain a response from the claimant. The claimant appealed the hearing officer's determination regarding disability. The carrier responded, urging affirmance of that determination.

DECISION

Affirmed.

The claimant had the burden to prove that he sustained a compensable injury as defined by Section 401.011(10); that he had disability as defined by Section 401.011(16); and that he timely notified his employer of his injury pursuant to Section 409.001. Conflicting evidence was presented at the CCH on the disputed issues. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Although there is conflicting evidence in this case, we conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**MR. RUSSELL RAY OLIVER, PRESIDENT
221 WEST 6TH STREET, SUITE 300
AUSTIN, TEXAS 78701-3403.**

Daniel R. Barry
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Robert W. Potts
Appeals Judge